

E-FILED 4/19/07

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

No. C03-04135 HRL

Plaintiff,

v.

**(1) ORDER DENYING MOTION TO
DISBURSE MONEY TO THE
TREASURY AND (2) ORDERING
DISTRIBUTION TO NET PURCHASERS**

CHRISTINE B. HOBERG,

Defendant.

This court's Interim Order of January 30, 2007 succinctly states the background of this matter. In compliance with that Interim Order, the Securities and Exchange Commission ("the Commission") filed a Supplemental Declaration of John S. Yun with an attachment prepared by Rust Consulting Inc. estimating the costs to distribute the money in the court's registry to the net purchasers of nVIDIA stock during the pertinent time period.

Subsequently, a second Supplemental Declaration was filed with an attached revised estimate of Rust Consulting Inc. The revised estimate projects approximately 3,594 qualified claimants and administrative costs of about \$63,275. The revised estimate does indicate some areas where additional expenses might be incurred and notes that some funds would have to be reserved to pay taxes on the post-judgment interest as well as to pay for the preparation of tax returns. The net available for distribution is close to \$600,000 which would average

1 approximately \$170 per qualified claimant.

2 The estimated costs of administration are eight or nine percent of the total fund
3 available. This relatively modest cost (\$63,275) clearly indicates that it is practicable and
4 economically feasible to contact qualified claimants. A projected average payout of
5 approximately \$170, while not munificent, is not *de minimus* and could actually be meaningful
6 to some.

7 On balance, this court sees no need to give the United States a windfall when, with
8 modest expense and effort, damaged net purchasers can have some recovery.

9 The motion to disburse the Hoberg payments to the U.S. Treasury is denied. Instead, the
10 Commission is directed to engage Rust Consulting Inc. to distribute the money in accordance
11 with its revised estimate. No distribution will be made to a net purchaser whose total claim is or
12 would be less than \$10.00. The court is available, if necessary, to provide further guidance on
13 the plan of distribution.

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15 **IT IS SO ORDERED.**

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18 Dated:

4/19/07

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HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

1 **THIS SHALL CERTIFY THAT A COPY OF THIS ORDER WILL BE SENT**
2 **TO:**

3 Leigh Aimee Kirmsse kirmssel@howrey.com, wortmans@howrey.com

4 Helane L. Morrison morrisonh@sec.gov, uclusinw@sec.gov

5 Patrick Thomas Murphy murphyp@sec.gov

6 John S. Yun yunj@sec.gov, johnstonj@sec.gov

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8 *** Counsel are responsible for providing copies of this order to co-counsel.**
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